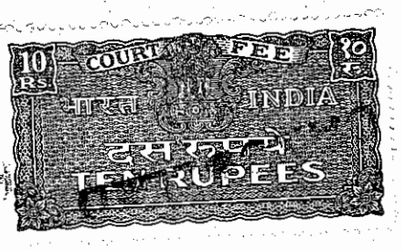
P.R. No. 5631/06 Dt. 1/2/06
Presented by Smt. Raju Sharma
dated 1/2/06
SINGLE BENCH



(3)

IN THE HIGH COURT OF CHHATTISGARH, BILASPUR

WP No. 1360 / 2006

PETITION UNDER Art. 227 OF THE CONSTITUTION

Petitioner — Deendayal Agrawal, S/o Devilal Agrawal,
Aged - 50 Years, R/o Vill. Padampur Bargarh Orissa
Through General Attorney:-
Bajranglal Agrawal, S/o Madan Lal Agrawal, Age - 33
R/o Jai Bajrang Complex, Gudiyari, Raipur (CG)

VERSUS

Respondents
1. State of Chhattisgarh, Through, Collector, Raipur
2. Executive Engineer, Chhattisgarh Housing Board, Shanker Nagar, Raipur (CG)

Assailing Order Dated 14/12/05 Passed By The Court Of X ADJ, Raipur, in Execution Case No. 08/05.

The Petition of Petitioner Most Respectfully Showeth As Follows-

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.No. 1360/2006

Deendayal Agrawal

Vs.

State of Chhattisgarh and another

W.P.No.1361/2006

Bhajanlal Agrawal

Vs.

State of Chhattisgarh and another

W.P. No.1362/2006

Vijay Kumar Agrawal

Vs.

State of Chhattisgarh and another

W.P. No.1363/2006

Gopal Das Agrawal

Vs.

State of Chhattisgarh and another

Appearance:

Shri Raja Sharma, Counsel for the petitioners in all the petitions.

Shri Satish Gupta, Dy. Govt. Advocate for the State/respondent No.1 in all the petitions.

Shri Sanjay Patel, Counsel for respondent No.2 in all the petitions.

ORAL ORDER
(05.10.2006)

SUNIL KUMAR SINHA, J.

(1) Since common questions have been raised for consideration in all these Writ Petitions, they are being disposed of by this Common Order.

(2) The brief facts leading to filing of these Writ Petitions are that in a Land Acquisition Case bearing No. 151-A/82 year 1989-90 pending before the Land Acquisition Officer, Raipur, a common award dated 5/8/1991 was passed by him and certain amounts were awarded to the petitioners. Since the petitioners had not accepted the award, passed by the Land Acquisition Officer, they filed written applications to the Collector requiring the matters to be referred by the Collector for the determination of the Court on certain grounds. On this, the matters were referred by the Collector to the District Court, on which, 4 MJCs vide Nos. 8/2005 (Deendayal Agrawal vs. State of Chhattisgarh and another), 9/2005 (Gopal Das Agrawal Vs. State of Chhattisgarh and another) 10/2005 (Bhajanlal Agrawal vs. State of Chhattisgarh and another) and 7/2005 (Vijay Kumar Agrawal vs. State of Chhattisgarh and another) were registered and ultimately, all were decided by the Court of X Additional District Judge, Raipur vide separate awards dated 10/5/2005, 12/5/2005, 12/5/2005 and 10/5/2005 respectively. By the aforesaid awards, the learned Additional District Judge enhanced the principle amount of compensation awarded to the petitioners and he also directed for payment of interest as per clause 23 (1-A) and 23(2) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) in their favour. The operative part i.e. clause 2 of the awards, which is almost common in all the cases, is quoted as under:

> "उपरोक्त मुआवजा के अतिरिक्त आवेदक भू–अर्जन के अनिवार्य स्वरूप को देखते हुए अधिनियम की धारा–23 (1) (अ) के तहत उक्त मूल्य के अतिरिक्त धारा–4 (1) की अधिसूचना प्रकाशन तिथि से एवार्ड तिथि तक 12% वार्षिक दर से तथा धारा 23 (2) के अन्तर्गत 30% अतिरिक्त दर से अतिरिक्त राशि भी प्राप्त करेगा ।"

(3) After passing of the aforesaid awards, the matters were put to execution before the said Court and in execution, the petitioners/claimants filed their own calculations in relation to the respective awards passed in their favour and prayed for payment of the awarded amount to them. The calculations filed by the petitioners in their execution cases were opposed by the State. The contention of the petitioners before the Executing Court were that the interest which has been awarded vide clause 2 of the awards u/s 23 (1-A) is the interest from the date of notification under Section 4(1) of the said Act till the date of passing of the awards, which means that till the date of awards, ultimately passed by the reference Court under Section 18 of the said Act and the petitioners were entitled to get the interest from the date of notification under Section 4(1) till 10/5/2005 and 12/5/2005 i.e. till the date of respective awards, which were passed by the reference Court in their favour.

(4) This contention was opposed by the State and it was contended that no such interest was awarded by the reference Court and the petitioners are wrongly interpreting clause 2 of the awards and they are wrongly claiming interest till the date of passing of the awards by the reference Court because the reference Court has only awarded interest till the date of award passed by the Land Acquisition Officer or Collector and not till the date of awards passed by it in reference cases.

(5) By the impugned orders dated 14/12/2005, the Executing Court upheld the objections raised by the State and determined that under the provisions of Section 23 (1-A) the power to award interest was till the date of passing of the award of the Collector, therefore, the claimants were not entitled to get the interest beyond that period. Holding so, the

Executing Court directed for filing of fresh calculations by the petitioners in their respective Execution Cases filed by them. It is against these orders, passed by the Executing Court on 14/12/2005; the petitioners have come before this Court in these Writ Petitions.

(6) Learned counsel for the petitioners argues that the word used as "award" in Section 23 (1-A) will also mean as the final award passed by the reference Court under Section 18, therefore, the Executing Court was not justified in taking the view that the claimants were only entitled to get the interest till the date of award passed by the Collector. He also argues that a plain reading of clause 2 of the awards would show that the reference Court has awarded interest till the date of passing of the reference award.

(7) Per Contra learned Counsel for the respondents oppose these arguments.

(8) I have heard learned counsel for the parties at length and have also perused the records of the Writ Petitions.

(9) So far as the first argument of learned counsel for the petitioners is concerned, for this, a reference may be made to the provisions of Section 23 (1-A) of the said Act. Section 23(1-A) provides that in addition to the market value of the land, as referred to in the earlier part of the Section, the Court shall in every case award an amount calculated at the rate of twelve percent per annum on such market value for the period commencing on and from the date of the publication of the notification under Section 4 sub-section (1) in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. The placement of this specific provision as sub-section (1-A) in between sub-sec. (1) & (2) of Section 23 clearly indicates

that if the market value of a land is determined by the Collector or Land Acquisition Officer for the purpose of an award to the claimant, then, it would be incumbent upon the Land Acquisition Officer or Collector to calculate an amount as is specified in this sub-section. When this sub-section specifically says that the amount shall be calculated for the period commencing from the date of publication of the notification under Section 4(1) to the date of award of the Collector or the date of taking possession of the land, which ever is earlier, then, under this mandatory provision, interest beyond the date of award passed by the Collector or beyond taking possession of the land which ever is earlier, cannot be granted.

(10) The provisions of under S. 23 (1-A) are designed to compensate the owners of land for the rice in prices during the pendency of the land acquisition proceedings. It is a measure to off-set the effects of inflation and the continuous rice in the value of properties, as the legislature has taken care of these happenings which recurringly occur due to the time consumed in disposal of land acquisition cases by giving a command. The words used by the Legislature in Section 23 (1-A) of the Act like "the award of the Collector" cannot be read in isolation and if they are conjointly read, they would lead to the clear and unambiguous meaning that the interest which has to be awarded to the claimant in addition to the market value of the land would be from the period commencing from the date of notification under Section 4(1) to the date of passing of the award of the Collector or the date of taking possession of the land, which ever is earlier, and not beyond it. Therefore, the first argument advanced by learned counsel for the petitioner cannot be accepted and the same is accordingly turned down.

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(11) The other argument of learned counsel for the petitioners that clause 2 of the award of reference Court shows that the reference Court has awarded interest till the date of passing of the reference award, is totally misconceived. The wordings used by the reference Court in clause 2 of the award are clear and unambiguous. The reference Court has clearly stated that under the provisions of Section 23 (1-A) in addition to the market value of the land, the petitioners shall also be awarded interest form the date of notification under Section 4(1) till the date of award at the rate of 12 percent per annum. After going through the entire award and also after going through the other provisions made in the award, this clause is clear and unambiguous, in which, interest is awarded till the date of passing of the award by the Collector and it cannot be read that the reference Court has awarded interest till the date of decision of the reference by it. Rather, it would appear that in fact, the interest which has been awarded under Section 23(1-A) is the interest till the date of award passed by the Collector and the word used like "award" and not saying as "award by the Collector" does not mean that it would be interpreted as the "award" passed by the reference Court.

(12) For the foregoing reasons, I do not find any merit in these Writ Petitions. All the Writ Petitions are accordingly dismissed.

(13) The Orders passed by the Executing Court in respective cases are hereby confirmed.

(14) No order as to costs.

Sd/-
Sunil Kumar Sinha
Judge

shyna

XI-HC-78

(79)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 1360/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	13.10.2006 Shri Raja Sharma, counsel for the petitioner. Shri Sushil Dubey, Govt. Advocate for the State/ respondent no.1. Shri Sanjay Patel, counsel for respondent No.2. It appears that due to typographical mistake in line no.2 & 4 of Para 10 of the order dated 05.10.2006, the word "rice" has been typed whereas it should be "rise". Accordingly, the same is corrected. The word "rice" coming in line No.2 & 4 of para 10 of the order, shall be read as "rise" and the typographical errors to this extent are corrected to which the parties have no objection. **Sd/-** **Sunil Kumar Sinha** **Judge**	13-10-06: C dbfc GOI m 13. bef 13.1 typ